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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,258	02/10/2004	Tom Campbell	01703151	1248
7590 Thomas Campbell 4219 N. Jarboe Ct. Kansas City, MO 64116		10/16/2007	EXAMINER FOX, CHARLES A	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 10/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,258

Applicant(s)

CAMPBELL ET AL.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show a pneumatically retractable conveyor in a rail car as described in the specification. There is very little detail provided for the structure of the rail cars or its pneumatic system which is now being claimed. There is just a brief mention of a conveyor and no specifics. Any structural detail in the claims must have a corresponding reference number in the drawings along with enough detail to build the device in question. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because the reference numerals are not the same throughout the drawings. Also the reference numerals in the circles are very hard to read. Further the text in the titles of the drawings must be removed, only the drawing number is required. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 14 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for conveyor in a rail car, does not reasonably provide enablement for a pneumatically retractable conveyor. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. In the art rejections below the claim is treated as best understood by the examiner.

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The conveyor (203) is not disclosed as being located on the base of the palletized cargo container (230). The conveyor is located on the movable dock and not the palletized cargo container. In any art rejections below the claim is treated as best understood by the examiner.

Claims 4,5 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no mention of structure that will form air plenums in the specification. The base of the palletized container is flat as is the floor of the rail car, therefore setting

them together will not form a plenum. There is no mention of a plenum between the pallet and the upper platform in the container. Figures 4A and 4B do not show any plenums and have none labeled.

Claims 4,5 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As mentioned above the plenums are not disclosed in the specification and are not shown. They are being treated as new matter and the limitations must be cancelled.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear how the container can frictionally engage the floor of the railcar if a plenum is being provided between the container and the railcar floor. As claims 4 and 5 are not enabled and claim 6 depends from claim 5, none of these claims are being treated on the merits at this time. Claim 12 is being treated as best understood by the examiner.

Claim 7 recites the limitation "the movable transfer dock" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 9,10 and 12-14 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson in view of Lamson et al. Gibson US 6,520,729 teaches a system for the centralized transfer of cargo, the system comprising:

- a plurality of railcars;

- said rail cars having a retractable conveyor in the floor thereof;

- a plurality of containers movable about the floor of said railcar on said conveyor.

Gibson does not teach any particular structure to the container. Lamson et al. teaches a pallet carrying rack comprising:

- a base;

- at least two side walls;

- a platform spaced above said base and attached to said side walls. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the system taught by Gibson with a container as taught by Lamson et al. in order to allow the container to hold two tiers of goods.

Regarding claim 2 Gibson further teaches a unloading platform (75) for the railcars with a conveyor thereon for moving the containers.

Regarding claims 3 and 9 Gibson further teaches that the railcars can be of any type, as such it would have been obvious to one of ordinary skill in the art, at the time of invention to an ordinary mechanic to provide a refrigerated railcar for perishable loads.

Regarding claims 10 and 12-14 Gibson teaches a system for the centralized transfer of cargo, the system comprising:

- a plurality of railcars of any variety;

- said rail cars having a retractable conveyor in the floor thereof;

- a plurality of containers movable about the floor of said railcar on said conveyor.

Gibson does not teach any particular structure to the container. Lamson et al. teaches a pallet carrying rack comprising:

- a base;

- at least two side walls;

- an open top;

- a platform spaced above said base and attached to said side walls;

wherein said base is spaced above the floor of any structure is sits upon allowing air to circulate under any cargo on the base; It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the system taught by Gibson with a container as taught by Lamson et al. in order to allow the container to hold two tiers of goods.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gibson and Lamson et al. as applied to claim 1 above, and further in view of Norrie. Gibson and Lamson et al. teaches the limitations of claim 1 as above, they do not teach

the movable dock as having doors or curtain seals. Norrie US 3,834,562 teaches a movable dock for moving containers between two vehicles wherein the dock has a plurality of doors for receiving and depositing cargo with expandable curtain seals being provided on said doors. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Gibson with curtain seals as taught by Norrie in order to protect the containers from the elements during transfer from one vehicle to another.

Response to Amendment

The amendments to the claims filed on July 26, 2007 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant is reminded that the text of cancelled claims should not be presented.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles A. Fox 10-12-07
Charles A. Fox
Primary Examiner
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